

GORDON M. RIGGS

IBLA 80-949

Decided August 25, 1981

Appeal from the decision of the Oregon State Office, Bureau of Land Management, declaring mining claims, OR MC 28354 and OR MC 28353, abandoned and void.

Affirmed in part; set aside in part.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Gordon M. Riggs, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Gordon M. Riggs has appealed the decision of the Oregon State Office, Bureau of Land Management (BLM), declaring the Golden Buck and Mule mining claims, OR MC 28354 and OR MC 28353, abandoned and void. Appellant filed copies of the location notices of the two claims, both of which are pre-FLPMA claims, on October 22, 1979, with the Oregon State Office. The State Office decision of August 18, 1980, declared the claims abandoned and void for failure to file evidence of assessment work or a notice of intention to hold the claims by October 22, 1979, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). In his appeal, appellant contended that he had clearly stated his intention to hold these two claims in the letter transmitting his location notices.

Following submission of the appeal herein, BLM reexamined appellant's October 21, 1979, transmittal letter and determined that it contained a statement of intention to hold the Mule claim as well as a declaration that the notice had been timely filed with the Linn County,

Oregon, office of records. BLM asked appellant to submit a copy of the official record notice and appellant did so. The State Director has therefore requested that the OR MC 28353 case file relating to the Mule claim be remanded so that the notice of intention to hold the claim may be accepted. Accordingly, the decision of the State Office as to this claim is set aside.

At the same time, however, BLM requested appellant to provide it with a copy of the official record notice of intention to hold for the Gold Buck claim, which appellant had also indicated had been filed. This appellant did not do. When appellant did not furnish this copy of the notice, BLM presumed that none had been filed with the county for the Gold Buck claim and, therefore, concluded that its original decision was correct.

[1] The applicable provisions of FLPMA, 43 U.S.C. § 1744(a)(1), (2) (1976), require that the mining claimant "file for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim[,] * * * an affidavit of assessment work performed thereon, * * * [or] a detailed report provided by section 28-1 of Title 30, relating thereto" and "file in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded." These provisions reflect the minimum filing requirements under the law. See, e.g., Harry J. Pike, 57 IBLA 15 (1981); James V. Joyce (On Reconsideration), 56 IBLA 327 (1981); Feldslite Corporation of America, 56 IBLA 78, 88 I.D. 643 (1981).

We realize that appellant, by his declaration in the October 21, 1979, letter, attempted to comply with the recordation provisions of FLPMA. However, this is not simply a case of presenting the notice in the wrong form as appellant alleges. He failed to comply with even the minimum requirements of the statute, i.e., filing in both the local State office and the BLM Office, and, therefore, BLM properly declared the Golden Buck mining claim abandoned. Robert W. Hansen, 46 IBLA 93 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as to the Gold Buck claim and set aside as to the Mule claim.

James L. Burski
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

